



Docket No.: 2038-230

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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Nariaki SHIMOE *et al.*

U.S. Patent Application No. 09/458,077

Filed: December 10, 1999

: Confirmation No. 8402

: Group Art Unit: 3761

: Examiner: M. Kidwell

For: DISPOSABLE BODY FLUIDS ABSORBENT ARTICLE

PETITION FOR REVIVAL UNDER 37 CFR 1.137(b)
AND STATEMENT ESTABLISHING UNINTENTIONAL DELAY

Mail Stop Petition

Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

The above-identified application was abandoned in view of Applicants' failure to file a proper reply to the Final Office Action mailed *January 15, 2004*. It is noted by the Examiner that a proposed reply (RCE and Request for Interview) was received on *April 15, 2004*, but did not constitute a proper reply, under 37 CFR 1.113(a), to the final rejection. A Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) and submission of a proper response is required for revival of the above-identified application.

Applicants hereby petition for revival of the above-identified application under 37 CFR 1.137(b) and is attaching form PTO/SB/64. It is stated that failure to file a proper response to the final rejection was inadvertent. Accordingly, Applicants hereby resubmit the RCE with a proper Amendment Submission under Rule 1.114. Also submitted is a copy of Form PTO-2051, as required by the Patent Office Communication mailed July 9, 2004.

The Petition Fee required by 37 CFR 1.17(m), and the extra claim fee are included in the attached RCE Transmittal and are reflected in the amount listed on the enclosed Credit Card

07/30/2004-ENGUYEN-00000010-09458077

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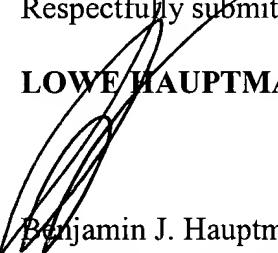
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Payment Form. The RCE Fee was paid on *April 15, 2004*, and no further payment is deemed necessary. However, please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

In view of the above submissions, *immediate* withdrawal of the holding of abandonment of the instant application, entry of the RCE, and consideration of the Rule 114 Submission are believed appropriate and therefore courteously solicited.

Respectfully submitted,

LOWE HAUPTMAN GILMAN & BERNER, LLP


Benjamin J. Hauptman
Registration No. 29,310

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1700 Diagonal Road, Suite 300

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703-684-1111 BJH/KL/klb

Facsimile: 703-518-5499

Date: July 28, 2004

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)
2038-230

First named inventor: Nariaki SHIMOE

Application No.: 09/458,077

Art Unit: 3761

Filed: December 10, 1999

Examiner: KIDWELL, MICHELLE M.

Title: DISPOSABLE BODY FLUIDS ABSORBENT ARTICLE

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX: (703) 308-6916

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703) 305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee --required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity - fee \$ 1330.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of RCE and accompanying Response (identify type of reply):

has been filed previously on RCE Fee paid on April 15, 2004.
 is enclosed herewith.

B. The issue fee and publication fee (if required) of \$ _____.

has been paid previously on _____.
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

July 28, 2004

Date

Signature

Telephone
Number: _____ (703) 684-1111

Benjamin J. Hauptman, Registration No. 29,310

Typed or printed name

1700 Diagonal Road, Suite 300

Address

Enclosures: Fee Payment

Alexandria Virginia, 22314

Address

Reply

Terminal Disclaimer Form

Additional sheets containing statements establishing unintentional delay

Other: Form PTO-2051 and Credit Card Payment Form

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: **Mail Stop Petition**, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (703) 308-6916.

Date

Signature

Type or printed name of person signing certificate